

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1090X

CITY OF ALAMEDA d/b/a ALAMEDA BELT LINE RAILROAD—ABANDONMENT
EXEMPTION—IN ALAMEDA COUNTY, CAL.

Decided: July 19, 2012

The City of Alameda d/b/a Alameda Belt Line Railroad (ABL) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 2.61 miles of rail line between milepost 0.0 near the intersection of Clement Avenue and Broadway and milepost 2.61 near Constitution Way, in the City of Alameda and in Alameda County, Cal. Notice of the exemption was served and published in the Federal Register on May 17, 2012 (77 Fed. Reg. 29,456-57). The exemption was scheduled to become effective on June 16, 2012.¹

Included with the verified notice of exemption was a request by the City of Alameda (Alameda) for the issuance of a notice of interim trail use/rail banking (NITU) under the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, for a portion of the right-of-way between mileposts 0.0 and 1.85. Alameda states that railbanking this portion of the right-of-way would ensure preservation of a linear rail corridor potentially suitable for rail reactivation and such uses as mass transportation, roads, highways, trails, open spaces and parks. Alameda submitted a statement of willingness to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless it is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the specified portion of the right-of-way, as required by 49 C.F.R. § 1152.29, and acknowledges that the use of this portion of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of that right-of-way for rail service.

Based on Alameda's statement of willingness and its acknowledgement that the use of this portion of the right-of-way as a trail is subject to future reconstruction and reactivation for rail service, a NITU for the specified portion of the right-of-way will be issued. If an interim

¹ In a decision served June 15, 2012, the Board reopened the proceeding and imposed conditions, requiring ABL to: (1) consult with, and notify, the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that could disturb or destroy any geodetic survey markers; and (2) consult with, and obtain any necessary approvals from, the San Francisco Bay Conservation and Development Commission prior to beginning any salvage activities.

trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h). Nat'l Trails Sys. Act & R.R. Rights-of-Way, EP 702 (STB served Apr. 30, 2012) (effective May 30, 2012). Use of this portion of the right-of-way for trail purposes is subject to any future use of the property for restoration of rail service and to Alameda's continuing to meet the financial obligations for the specified portion of the right-of-way.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice served and published in the Federal Register on May 17, 2012, exempting the abandonment of the above-described line, is modified to the extent necessary to implement interim trail use/rail banking for the portion of the right-of-way between milepost 0.0 and milepost 1.85.
3. The request for a NITU, under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, as to the portion of the right-of-way noted above is granted.
4. If ABL and Alameda reach a rail banking/interim trail use agreement for the portion of right-of-way between mileposts 0.0 and 1.85, they shall jointly notify the Board within 10 days that the agreement has been reached.
5. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the specified portion of the right-of-way for rail service and to Alameda's continuing to meet the financial obligations for the specified portion of the right-of-way.
6. If Alameda intends to terminate trail use for the portion of the right-of-way specified above, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
7. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.